



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 15, 1994

Mr. James J. Bayne
City Attorney
City of Del Rio
P.O. Box 4239
Del Rio, Texas 78841

OR94-352

Dear Mr. Bayne:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act (the "act"), chapter 552 of the Government Code (former V.T.C.S. article 6252-17a).¹ Your request was assigned ID# 24550.

The City of Del Rio (the "city") has received a request for information relating to a kidnapping. It appears that the requestor is currently serving a federal sentence for this offense. You assert that the information is excepted from required public disclosure under section 552.108 of the act (formerly section 3(a)(8)).

Section 552.108 provides that:

(a) A record of a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from [required public disclosure].

(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is excepted from [required public disclosure].

¹We note that the Seventy-third Legislature repealed V.T.C.S. article 6252-17a. Acts 1993, 73d Leg., ch. 268, § 46. The Open Records Act is now codified in the Government Code at chapter 552. *Id.* § 1. The codification of the Open Records Act in the Government Code is a nonsubstantive revision. *Id.* § 47.

Where an incident involving allegedly criminal conduct is still under active investigation or prosecution, section 552.108 may be invoked by any proper custodian of information which relates to the incident. Open Records Decision Nos. 474 (1987); 372 (1983). Certain factual information generally found on the front page of police offense reports, however, is public even during an active investigation. *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), writ *ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976) at 3-4 (list of factual information available to the public).

After a file has been closed, either by prosecution or by administrative decision, the availability of section 552.108 is greatly restricted. Open Records Decision No. 320 (1982). The test for determining whether information regarding closed investigations is excepted from public disclosure under section 552.108 is whether release of the records would unduly interfere with the prevention of crime and the enforcement of the law. Open Records Decision No. 553 (1990) at 4 (and cases cited therein). A governmental body claiming the "law enforcement" exception must reasonably explain how and why release of the requested information would unduly interfere with law enforcement and crime prevention. Open Records Decision No. 434 (1986) at 2-3.

You state generally that "[i]t appears that all of the reports made by the police officers indicate techniques used by them to investigate a crime. With regard to the statements given by the witnesses, it is my understanding that they testified during the trial" of the requestor. We have reviewed the records you submitted to our office. The records do not on their face reveal law enforcement techniques that would not be known by the general public, nor do you explain with any specificity how the reports would reveal such techniques. Because you have not demonstrated how the requested information would unduly interfere with law enforcement and crime prevention, we conclude that it must be released.

If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in cursive script that reads "Mary R. Crouter".

Mary R. Crouter
Assistant Attorney General
Open Government Section

Ref.: ID# 24550

Enclosures: Submitted documents

cc: Mr. Salvador Copado, Jr.
FCI - Three Rivers
P.O. Box 4200, Unit MB
Three Rivers, Texas 78071-4200
(w/o enclosures)